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House Adopts Terrorism Insurance Bill

Shortly after returning from the Thanksgiving break, the House passed legislation that would promote the availability of terrorism insurance coverage and, by requiring insurers to pay back any taxpayer funds that are used to cover terrorism losses, protect taxpayer and consumer interests.

Unfortunately, House Republican leaders first tacked on onerous and unwarranted liability limits that are sure to complicate final passage.

The bill passed on a 227-193 vote after a Democratic alternative was defeated. Although the Democratic alternative omitted the objectionable liability provisions, CFA opposed the underlying bill because it did not require the repayment of all government funds.

"Congress can and should back up the private insurance market with reinsurance for the peril of terrorism," said CFA Insurance Director J. Robert Hunter. "However, this must be done in a wise way that, over time, assures that this financially sound industry repays taxpayers for the costs of the program."

"The basic approach taken in the House bill is fair to consumers, the insurance industry, and taxpayers," he said.

Under the bill, H.R. 3210, federal loans would be made available to insurers to cover terrorism losses above $1 billion, or above $100 million if any one insurer incurred losses exceeding 10 percent of their surplus and 10 percent of the amount of their written premium. Loans would cover 90 percent of losses, starting with the first dollar of losses.

Insurers would pay back loans through a direct assessment if losses totaled less than $20 billion. Above $20 billion, insurers would be permitted to pass on loan costs to ratepayers through a premium surcharge.

Insurers Can Afford to Repay Loans

Hunter and CFA Legislative Director Travis Plunkett wrote to House Financial Services Committee leaders in November expressing CFA's strong support for this general approach.

"Even after the horrible events of September 11, the property/casualty insurance industry is very healthy," they wrote. "The industry can afford to pay back any assistance that is provided."

CFA praised the House legislation for:

- providing short-term federal backing for terrorism coverage without over-burdening taxpayers;
- ensuring that commercial ratepayers, not taxpayers, bear the brunt of the repayment burden;
- preventing insurers from paying for bad risks with federal funds while keeping lower risks for industry accounts; and
- allowing states to continue to oversee the affordability and availability of insurance.

CFA did advocate several changes to the bill, however, including increasing the "triggers" for federal loan support and requiring insurers to cover some initial losses in their entirety.

Without the latter provision, insurers will be less likely either to price terrorism coverage properly or to insist that those they are insuring take measures to increase security and decrease their risk, Hunter explained.

Liability Provisions Strongly Opposed

CFA also criticized as "unwarranted" provisions in the bill to limit punitive damage awards. Instead of eliminating those provisions, however, House Republican leaders expanded them.

"If insurers and some members of Congress want to make the case for broad changes in tort law – which CFA opposes – they should give Congress the time to thoroughly debate and consider those changes," Plunkett said. "Such changes should not be attached to a bill that must be acted on quickly."

"House leaders Delay and Armey have taken a basically good bill and added a poison pill they know is unacceptable to the Senate," he added. "They couldn't have done a better job of halting progress on this bill if they'd wanted to."

The situation in the Senate is further complicated by the number of bills being introduced, each taking a somewhat different approach.

Sens. Paul Sarbanes (D-MD), Phil Gramm (R-TX), and Christopher Dodd (D-CT) were first to unveil competing legislation in November.

Key Senate Bill Would Provide Industry Hand-out

Modeled after a proposal put forward by the White House, their bill provides for the government to pay 90 percent of terrorist insurance claims up to $100 billion a year, after the industry pays for the first $10 billion in claims.

The plan would last for two years, after which the Treasury Secretary could renew it for a third year. In the third

(Continued on Page 2)

DOJ Abandons Consumers in Microsoft Settlement

The U.S. Department of Justice and Microsoft Corp. announced a tentative settlement of their antitrust dispute in November that leaves Microsoft's monopoly and its ability to abuse that monopoly largely undiminished.

The deal would place Microsoft under supervision for the next five to seven years, but allow it to keep its Windows software virtually unchanged.

It would also allow the software maker to protect the source code for its operating system without ensuring that non-Microsoft programmers have a fair chance to develop applications that run on top of Windows.

"It is outrageous that the federal government, armed with a 7-0 appeals court decision that Microsoft illegally quashed rival software makers, would decide to settle in this fashion," CFA, Consumers Union, and Media Access Project wrote in a joint statement.

The groups criticized the settlement for failing to address the fundamental issue of Microsoft's efforts to mingle its code with its software applications, a practice that "threatens to prevent independent programmers from offering their own applications to compete with Microsoft."

"The potential for Microsoft to continue to misbehave under this reported arrangement is enormous," said CFA Research Director Mark Cooper. "If the government does not push for a substantial penalty should Microsoft continue to behave in an anticompetitive manner, Microsoft is likely to continue to break the law in the future."

Nine States Reject Settlement

Nine states apparently shared the consumer groups' concerns and refused to sign off on the settlement agreement. California Attorney General Bill Lockyer said, for example, that the agreement "doesn't provide adequate remedies for businesses that would be victim to Microsoft's illegal use of its monopoly power."

Meanwhile, the U.S. District Court must conduct a public-interest review of the settlement.

Judge Colleen Kollar-Kotelly rejected a Microsoft request to delay the opposing states' case while the court conducts its review. Instead, she will allow the case to proceed on parallel tracks, with the opposing states permitted to begin taking evidence in support of a tougher remedy while the court's public-interest review goes forward.

While the government was negotiating its settlement, CFA, Consumers Union, Media Access Project, and U.S. Public Interest Research Group warned that Microsoft's new operating system, Windows XP, would extend and deepen the company's illegal monopoly and cause significant harm to the nation's consumers.

The groups' analysis was released in September, as Microsoft was racing to put its new operating system into computers before a potential judicial order could require major changes to its structure.

It reveals how the tight integration of Windows XP with other basic computer applications, restrictive licensing terms, and other anti-competitive conditions imposed by Microsoft not only mimic Microsoft's previous violations of the antitrust laws, but also significantly add to them.

Windows XP Adds To Concerns

The groups conveyed their concerns in a letter to the head of the U.S. Department of Justice's Antitrust Division, the state attorneys general party to the case, and an additional six state attorneys general who had expressed concerns about the anti-competitive nature of Windows XP.

In the letter, they called for extensive conduct remedies that eliminate from Windows XP/.NET all of the technology and business practices that the courts found illegal and retain district court jurisdiction to break up Microsoft if its conduct fails to comply with any settlement.

"A conduct remedy is only as effective as its enforcement mechanism," Cooper said.

"Microsoft has exhibited a striking corporate disdain for the legal norms imposed by antitrust laws, and promises the same with the launch of Windows XP/.NET," he added. "The court must be prepared to stop Microsoft in its tracks if it again flaunts the antitrust laws."

The CFA, CU, MAP statement on the settlement is available on CFA's website at www.consumerfed.org/CFA-CU-MAP_settlement_statement_20011101.pdf. The letter to the DOJ and attorneys general is available at /WINXP_anticompetitive_AGLetter.pdf. The Windows XP study and a news release on the study are available at /WINXP_anticompetitive_study.pdf and /WINXP_anticompetitive_release.pdf.

EPA To Implement Clinton Era Arsenic Rule

Reversing a decision that had prompted widespread criticism, the Environmental Protection Agency announced in late October that it would proceed with the Clinton administration rule to lower the amount of arsenic allowed in drinking water.

CFA Public Policy Associate Diana Neidle applauded the decision, but added that, instead of engaging in "an unnecessary review of the arsenic rule," the EPA could and should have spent that time and money "helping begin the process of funding and installing new treatments to reduce arsenic in drinking water."

The Clinton administration finalized the rule in January, lowering the permissible level of arsenic in drinking water from 50 ppb to 10 ppb and giving water systems until 2006 to meet the new standard.

That rule was based, among other things, on a National Academy of Sciences finding that people exposed to even low amounts of arsenic in their drinking water are at increased risk of skin, lung, and bladder cancer and may be more likely to experience kidney and liver cancer, blood problems, birth defects, and reproductive problems.

Soon after the Bush administration took office, however, EPA Chairman Christine Todd Whitman raised cost concerns about the rule, suggested that it was based on "junk science," and announced that it was being withdrawn for further consideration.

As part of its review, EPA asked three panels of scientists and water industry experts to review the assumptions on which the 10 ppb limit was based.

Their reports suggested that, if there was a weakness in the 10 ppb rule, it was that EPA had under-estimated both the health threat posed by arsenic and the financial savings offered by a lower standard.

"In fact, the evidence in those reports points to the need for an even more protective standard at 3 ppb," Neidle said. That lower limit has been determined by EPA to be achievable, Neidle said, and would further reduce the combined risk of fatal cancer from arsenic in drinking water to 10 people in 10,000 from the 30 people in 10,000 risk achieved by a 10 ppb cap.

EPA limits other carcinogenic contaminants in drinking water to levels that present no more than a 1 in 10,000 combined fatal cancer risk.

EPA had no sooner announced its decision to proceed with the 10 ppb standard than Congress acted to weaken it.

Although the VA-HUD appropriations bill requires EPA to implement the 10 ppb standard, it contains report language that undermines that goal by directing the EPA both to use its existing authority to waive and delay the requirement for small water systems and to provide Congress with additional legislative language, as needed, to accomplish that goal.

"As a result of this report language, millions of people in small towns across the country could be exposed to drinking water containing dangerous levels of arsenic," Neidle said.

New HUD Policy To Cost Homeowners Millions

The Department of Housing and Urban Development announced a new policy on real estate brokers' receipt of yield spread premiums in October that seriously undercuts the ability of consumers to hold lenders who break the law accountable.

Although unreasonable lender paid broker fees are still illegal under the new HUD policy, it shields industry from class action lawsuits challenging the legality of the kickbacks.

"HUD has come to the rescue of brokers and lenders who have knowingly violated the law," said CFA Housing Coordinator Brad Scriber.

The problem, he said, is that the threat of class actions provides the only effective deterrent against abuse, since the few individual actions likely to be brought will not provide adequate incentive to the industry to comply with the law, and HUD has so far failed to conduct enforcement actions to prevent violations.

Consumers generally expect to pay a fee to a broker, either in cash or by borrowing more, to compensate the broker for helping them to obtain a loan. When they do so, they expect that the broker will provide them with a loan at the lowest available rate.

In some cases, however, brokers receive an additional fee from the lender in exchange for "upselling" consumers to loans with interest rates above what they qualify to receive.

While not all such fees are inherently abusive – sometimes, for example, the fees may be used to reduce the borrower's closing costs – such kickbacks are often a major component of predatory mortgage lending, providing an incentive to brokers to refinance loans and increasing the use of onerous prepayment penalties.

In determining whether lender fees are abusive, the new HUD policy statement requires that each case be individually reviewed to determine compliance.

"The intent and effect" of this approach is to prohibit class actions, according to an analysis of the policy written by National Consumer Law Center (NCLC) Managing Attorney Margot Saunders and released by CFA, NCLC, National Association of Consumer Advocates, and the Coalition for Responsible Lending.

In presenting the policy, HUD claimed a proposed "new" rule might require that additional information be provided to consumers. This, in turn, could change the predatory practices of some brokers and provide protection to consumers, according to HUD.

In fact, the new rule has no requirement that lenders provide more information to consumers. It merely restates standing requests that lenders adhere to voluntary best practices, Scriber said.

"This is just a smoke screen," he said. "HUD had already sent a clear message to lenders and brokers regarding best practices with its previous statement."

The original 1999 HUD policy statement encouraged improved disclosure as the most effective means of avoiding legal challenges to payment of a broker fee, he noted.

"Unfortunately, HUD's new policy stalled on the issue of consumer protection, but gave immediate relief to abusive lenders and brokers," Scriber said.

Terrorism Insurance, *Continued from Page 1*

year, government backing would kick in after the industry paid the first $20 billion in claims.

"To give free taxpayer back-up to the terribly rich insurance industry is worse than a bail-out, it is a hand-out," Hunter said. "How could Congress ever say no to hotels and travel agents and other seriously stressed industries if they hand money to this over-capitalized industry?"

Meanwhile, Senate Majority Leader Tom Daschle (D-SD) prepared to introduce legislation that would require insurance companies to cover a greater proportion of terrorism losses than the administration proposal. As this issue of the newsletter went to press, however, it did not appear that the Daschle bill would require insurance companies to pay back all losses.

Sen. Gramm also introduced his own bill based closely on the original White House proposal.

Senate Commerce Committee Chairman Fritz Hollings (D-SC) introduced legislation to create an industry-financed fund to cover future terrorism losses. And Sen. John McCain (R-AZ) introduced legislation that adopts the same loan-based approach as the House bill, but without the liability limits.

"There is a strong consensus in the Senate that the government should provide some kind of back-up for terrorism reinsurance," Plunkett said. "The big debate is about who pays for this back-up – taxpayers or insurance companies and their policy-holders."

So far, the McCain and Hollings bills offer the best options, he said.

Hunter's Senate testimony on the issue is available on the CFA website, at www.consumerfed.org/insuring_terrorism_risks.pdf, as is a document outlining the principles for terrorism insurance legislation, at /terrorinsurance.pdf.

FERC Chair Advocates Electricity Competition

New Federal Energy Regulatory Commission Chairman Patrick Wood said his chief goals at FERC are to promote savings for consumers and technical innovation and that the best way to accomplish those goals is through increased competition, particularly in the electricity market.

"Competition can and will work for consumers," Wood said in a keynote speech at CFA's utility conference.

Under regulation, companies have no motive to be efficient, he said. If company profits are on the line, customers will benefit from increased efficiencies.

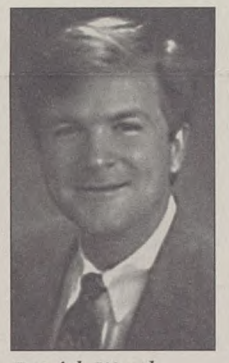
Wood noted that the decision to open up energy markets is up to the states. "My job is to make sure wholesale markets are working so states can open up their markets," he said.

In the process, FERC also needs to protect both consumers and producers, he said.

David Nemtzow, Executive Director of the Alliance to Save Energy, said federal energy policy should do much more to promote energy efficiency and conservation.

Instead, he said, President Bush declared an energy emergency, then proceeded to cut the budget for energy efficiency and roll back efficiency standards.

The events of September 11 create a new urgency for promoting energy efficiency in order to reduce our dependence on foreign oil, he said.



Patrick Wood

David Nemtzow

The transportation sector consumes 71 percent of the oil used in this country, he noted, but technology is out there to improve fuel efficiency standards.

If the United States did nothing more than require all light trucks to conform to efficiency standards of cars, he said, we would in three years save as much oil as we would get out of the Alaska National Wildlife Refuge over its 50-year expected life span.

Nemtzow and Wood agreed that, in light of new security threats, significant investments are needed to upgrade the energy infrastructure.

Legislative Briefs, *Continued from Page 4*

who attempt to shield assets in expensive homes. In addition, the Senate bill includes a provision, strongly opposed in the House, that would prevent violent anti-abortion protesters from filing for bankruptcy to escape fines and court judgments.

The conference committee meeting in November failed to produce progress on these issues, and few observers expect the committee to agree on a final bill before the end of this year's legislative session.

"Congress would be hard pressed to explain why it is necessary to make it more difficult to get a fresh start in bankruptcy when many families are experiencing economic difficulty," Plunkett said.

Payday Lenders Use Banks To Evade State Laws

Thwarted by state regulators and the courts, payday lenders are expanding their use of partnerships with banks to make loans that violate state usury laws, small loan rate caps, and payday loan laws, according to a report released in November by CFA and U.S. Public Interest Research Group.

"Check cashers, pawnshops, and payday lenders are attempting the biggest bank powers heist of all time," said CFA Director of Consumer Protection Jean Ann Fox.

"Because they don't want to comply with state laws designed to limit their triple-digit interest rates, payday lenders are renting bank charters in a cynical attempt to avoid state consumer protections," she said.

The new report, "Rent-A-Bank Payday Lending," is based on a survey of 235 payday lenders in 20 states and the District of Columbia.

Annual percentage rates (APRs) quoted by surveyed payday lenders ranged from 182 percent to 910 percent, with a national average APR of 470 percent for surveyed loans. Fees for a two-week, $100 loan ranged from $10 to $35, with an average fee of $18.28.

The most common APR found was 390 percent, charged by 30 percent of all stores. Another 18 percent of stores charged APRs of 529 percent, while 21 percent of stores charged APRs between 442 and 459 percent.

"It is obvious that competition and state limits are failing to protect payday loan borrowers," said U.S. PIRG Consumer Program Director Edmund Mierzwinski. "Over half the surveyed lenders in states that cap rates are charging at or above the legal maximum."

Only 32 percent of lenders disclosed a nominally accurate APR on charts or brochures in their stores, and only 22 percent disclosed both fees and APRs in their stores.

"This makes it all but impossible for consumers to shop for payday loans by price," Fox said.

Over three quarters of surveyed stores allow consumers to "roll over" unpaid loans, either by paying a finance charge to extend the loan or by submitting a new check for another loan as soon as the old check is redeemed for cash. Consumers who take advantage of such offers often pile up interest charges worth many times the original loan amount.

According to the report's review of state legislative activity in 2000 and 2001, states appear somewhat less willing than in previous years to pass industry-friendly legislation.

Only Florida and North Dakota legalized payday lending in 2001, while Alabama, Virginia, Maryland, Oklahoma, New York, Georgia, Texas, and California all refused to pass industry backed bills.

North Carolina is allowing its payday loan law to sunset next August. And both Maryland and Colorado have adopted anti-broker or loan arranger laws in order to keep control over local companies that broker loans for out-of-state banks.

Despite such efforts, and warnings from federal bank regulators, bank involvement in payday lending is growing both in states that retain usury limits, such as Virginia and Indiana, and in states that authorize payday lending, such as Colorado and California.

Lenders that partner with banks usually charge higher rates, make larger loans, or make repeat loans in violation of state laws, the report found.

In a positive development, these rent-a-bank payday lenders are facing state enforcement or class action litigation in Colorado, Ohio, Maryland, Florida, and Texas.

CFA and U.S. PIRG urged states to enforce existing usury laws and small loan laws and to enact anti-broker provisions to keep state control over non-bank local companies.

They urged those states that have already adopted industry-friendly laws to amend those laws to lower costs, prevent debt traps, and protect borrowers from coercive collection tactics made possible by the holding of checks as the basis for loans.

The groups also called on Congress and federal bank regulators to stop rent-a-bank arrangements and outlaw the holding of checks drawn on federally insured depository institutions as the basis for small loans.

"Consumers with 'too much month at the end of the paycheck' deserve better legal protection against predatory lenders," Fox concluded. "Lenders who misuse bank charters and who devise tricks and ruses to evade state consumer protections must be stopped."

At the Agencies

Consumer Product Safety Commission

Faced with the company's refusal to act voluntarily, the Consumer Product Safety Commission voted 2-1 in October to take Daisy Manufacturing Company to court to force a recall of air guns the agency claims appear empty when they are not. CPSC contends that the company's 856 and 880 Powerline models contain a defect that allows BBs to become trapped inside, making the user believe the gun is not loaded. The high-powered BB guns typically fire at about 650 feet per second, and might, if pumped enough, fire at a velocity of about 750 feet per second, or as fast as a .38 special, according to the agency. "Today's high-velocity air guns are not like those of yesteryear," said CFA Project Director Susan Peschin. "Many of today's models have the power of real guns to break through skin and are responsible for injuring tens of thousands of users a year." The recall proposal was filed last year as a result of an incident in which a Pennsylvania teen was permanently disabled when his best friend accidentally shot him in the head. "While CFA supports the recall, CFA continues to believe legislation is needed giving Department of Treasury expanded authority over firearms," Peschin added.

* * *

The CPSC voted unanimously in October to issue a Notice of Proposed Rulemaking to address the risk of injury and death to children posed by certain portable bed rails. Since 1990, 14 deaths have occurred involving portable bed rails, 12 of which were caused by entrapment between the bed rail and part of the bed. "Bed rails are a safety device intended to keep kids from falling out of bed, not strangling them. It is imperative that a standard be developed to assure the safety of this product," said CFA General Counsel Mary Ellen Fise.

* * *

Following up on an earlier petition to CPSC, CFA submitted comments to the agency in October urging it to ban baby bath seats and rings on the grounds that they present an unreasonable risk of injury. CPSC has received reports of 78 deaths and 110 non-fatal incidents associated with the products between January 1983 and May 2001. "There is no standard that would adequately address the risk of injury associated with these products, and they should therefore be banned," Fise said. CFA's comment letter is available on the CFA website at www.consumerfed.org/babybath_seatsltr.pdf.

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CFA also submitted comments to the CPSC in October urging the commission to start a rulemaking to require all manufacturers, distributors, retailers, or importers of products intended for children to provide a Consumer Registration Card with every product that allows the purchaser to register information through the mail or electronically. The cards would allow manufacturers to contact consumers directly in the event of a recall or to convey important safety information. "Improving how and when consumers learn about recalls should be a CPSC priority. We are pleased that the agency is reviewing this proposal, and we strongly urge the Commission to begin a rulemaking to address this issue," Fise said. CFA's comment letter is available on the website at /prod_reg_card_petitionltr.pdf.

Federal Communications Commission

CFA filed comments with the Federal Communications Commission in November urging the commission to reject BellSouth's application to provide long distance telephone service in Georgia and Louisiana on the grounds that local phone markets in those states are not yet irreversibly open to real competition. "Allowing entry at this point would harm consumers by reducing the prospect of authentic local phone competition in those two states," said CFA Research Director Mark Cooper. The comments are available on the CFA website at /FCC_Comments.ga-la271.20011113.pdf.

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A coalition of privacy and consumer groups, including CFA, submitted comments to the FCC in November urging the agency to implement an opt-in approach for telecommunications carriers' use of customer proprietary network information. "The Commission's responsibility to protect the privacy of telecommunications customers can only be met by implementing an opt-in approach," the groups wrote. The comments are available on the Electronic Privacy Information Center website at www.epic.org/fcc%20cpni/CPNI_Reply_Comments.html.

Department of Justice

The Department of Justice has proposed to purge on a daily basis records from Brady Act background checks regarding gun transfers that do not violate federal or state law. The previous administration had proposed retaining the records for 90 days to allow for system audits to identify and investigate system misuse. CFA filed comments recommending a 90-day document retention rule. "It is in the best interest of consumer safety to reject the proposed destruction deadline and instead adopt a 90-day document retention rule," Peschin said. "The Justice Department is otherwise abandoning a position that was developed through the rulemaking process, defended by the department, and upheld by the courts with absolutely no policy justification or basis in the record."

Department of Energy

CFA reiterated its strong support for a more stringent energy efficiency standard for central air conditioners in comments filed with the Department of Energy (DOE) in October. In January, DOE issued a rule raising the Seasonal Energy Efficiency Ratio (SEER) to 13. Now DOE is seeking to roll back the standard to a SEER 12, a move that CFA is also opposing in court. "CFA supports increased energy efficiency standards as a means to help lower consumers' energy bills and to benefit the environment," said CFA Project Manager Mel Hall-Crawford. "Such a standard supports the administration's goals of reducing energy consumption and increasing energy security." The CFA comment letter is available on the CFA website at www.consumerfed.org/DOEACs.

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Legislative Briefs

Senate Defeats Food Safety Amendment

The Senate failed a key test of its commitment to food safety in October, when it defeated an amendment that would have given the Agriculture Department clear authority to set and enforce limits on food poisoning bacteria in meat and poultry products.

"The Congress makes a lot of noise about saving us from food terrorists, but it won't let USDA prevent the sloppy practices that result in 350,000 hospitalizations and 5,000 deaths a year," said Carol Tucker Foreman, Director of CFA's Food Policy Institute.

USDA authority to enforce the pathogen reduction standards has been in question since March 2000, when a federal court in Texas prevented USDA from withdrawing inspection from, and thus shutting down, Supreme Beef Processors Inc.'s ground beef processing plant, which had repeatedly failed government Salmonella tests. That case is now on appeal.

The pathogen standards are a key component of the Hazard Analysis Critical Control Point program, which gives meat and poultry processors enormous freedom to run their plants their own way. The standards are designed to provide an objective measure of whether the new program results in cleaner, safer food.

Since the rules were adopted, the incidence of Salmonella in chicken and ground beef has declined by about half.

Despite the program's clear success, and the fact that virtually all the plants are passing the standards, industry has fought the standards vigorously. "The industry wants the freedom of HACCP without the responsibility of reducing pathogens," Tucker Foreman said.

The key vote came on a motion by Sen. Tom Harkin (D-IA) to table a proposal by Sen. Ben Nelson (D-NE) that effectively killed the new USDA authority. The Harkin motion failed 45-50.

House Passes Flawed Retirement Advice Bill

The House passed legislation in November that would expose retirement plan participants to biased advice about their plan investments.

H.R. 2269, the Retirement Plan Advice Act, passed on a 280-144 vote. It would clarify that employers are not liable for bad advice provided by outside advisers and impose fiduciary and disclosure requirements on retirement plan advisers.

However, because the bill would eliminate the ERISA prohibition on self-interested transactions, it would all but guarantee that most workers' only access to advice would be from those with a financial interest in the products being recommended.

"Independent advisers will be unable to compete on equal terms if they must bill employers directly for their services while mutual fund companies, brokerdealers, and insurance companies can shift the cost onto employees in the form of higher sales commissions or fees," CFA Director of Investor Protection Barbara Roper wrote to House members.

Sen. Jeff Bingaman (D-NM) introduced a bill, S. 1677, in November that takes a somewhat different approach to removing the liability barrier to offering advice without removing the prohibition on self-interested transactions.

"While there are problems with the bill, particularly in its approach to defining who is qualified to offer investment advice to retirement plan participants, it is much more worker-friendly than the House bill," Roper said.

House Passes Pediatric Drug Testing Bill

The House gave overwhelming approval in November to legislation, H.R. 2887, designed to promote testing of medicines for use on children.

The bill extends current law, due to expire at the end of this year, which grants a six-month patent extension to manufacturers as an incentive to test drugs on children.

While the law has been useful in producing some data on proper dosages for children, as well as possible side effects, it has also been used by industry to delay the introduction of more affordable generic alternatives for some very important and widely used drugs.

That has produced windfall profits for industry paid for by increased costs to consumers.

"The last thing Americans need right now is higher drug prices," said CFA Legislative Director Travis Plunkett. "The House failed to include amendments that would have increased drug testing for children while decreasing the cost to consumers."

The Senate passed a similar bill in October. A conference committee will meet to resolve the minor differences between the bills.

Conferees Meet on Bankruptcy Bill

A conference committee met for the first time in November to try to resolve differences between House and Senate versions of bankruptcy legislation.

Although both the House and Senate passed their bills, H.R. 333 and S. 420, in March, a variety of complications have delayed conference negotiations.

Overall, the House and Senate bills are quite similar in approach. Both would impose numerous, unwarranted, and burdensome restrictions on Americans who attempt to file for bankruptcy.

Neither would curb aggressive lending practices by creditors that help entice consumers into taking on unsustainable levels of debt or provide adequate information to consumers about the cost of carrying credit.

However, the bills differ significantly in how they would treat wealthy debtors

(Continued on Page 2)

New Campaign to Protect Kids from Tobacco Smoke

The Environmental Protection Agency, CFA, and medical and community organizations have announced a major new public health initiative to protect America's children from the hazard of secondhand smoke in their homes.

"Because children have unique vulnerabilities – they absorb greater concentrations of smoke than adults do from the same exposure – we must use greater caution in protecting them from environmental threats to their health," said EPA Administrator Christine Todd Whitman, in announcing the campaign. "One of the ways parents and caregivers can do this is by taking the Smoke-Free Home Pledge – simply choosing not to smoke, and not letting others smoke, in your home or anywhere children are present."

Whitman was joined by representatives of CFA, the American Academy of Allergy Asthma and Immunology (AAAAI), the American Academy of Pediatrics (AAP), the National Association of Counties (NACo) and the National Organization of Black County Officials (NOBCO) at an October press conference to unveil the campaign.

The goal of the campaign is to motivate millions of parents to pledge to keep their homes smoke-free. The initiative will include a national television and print media campaign as well as a major outreach effort cosponsored by key medical, consumer, and community organizations.

CFA Foundation has worked with EPA to develop Public Service Announcements that will be used to promote the campaign. CFA also operates a website (at www.consumerfed.org/ets) where parents and caregivers can take the pledge on-line.

In addition, thousands of partners at the local level will use a variety of activities to get the word out, including distributing brochures encouraging parents to take the pledge. EPA is providing participating organizations with a community action kit that gives details about how to set up a local pledge effort. It has also established a smoke-free hotline, at 1-800-513-1157, to take pledges from parents.

"More than 10 million children are exposed to secondhand smoke every day in their homes, increasing their likelihood of developing ear infections, bronchitis, and asthma," said CFA Project Manager Betty Leppin. "The good news is this doesn't have to happen," she added. "CFA Foundation research indicates that seven out of ten smokers are willing to smoke outside for the sake of their children's health. This project will help millions of parents by encouraging them to take the smoke-free home pledge, and to not smoke around their children."

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